

Appendix D

Letters of Concurrence from the National Oceanic and Atmospheric Administration Fisheries Service and U.S. Fish and Wildlife Service Related to the Biological Assessment

I-5 South Everett Park-and-Ride Lot and HOV Access Project
Environmental Assessment



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Western Washington Fish and Wildlife Office
510 Desmond Drive SE, Suite 102
Lacey, Washington 98503
Phone: (360) 753-9440 Fax: (360) 534-9331

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APR 11 2003

ENVIRONMENTAL

In Reply Refer To:
1-3-02-1-1932

APR 11 2003

Gary Davis
Washington State Department of Transportation
Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, Washington 98133-9710

Dear Mr. Davis:

This is in response to your letter dated August 12, 2002, and enclosed Biological Assessment (BA). The letter and BA for the Sound Transit Regional Express South Everett Park-and-Ride were received in our office on August 14, 2002. Your letter requests our concurrence with your finding that the project may affect, but is not likely to adversely affect, the bull trout (*Salvelinus confluentus*). This request is being submitted in accordance with section 7 of the Endangered Species Act of 1973, as amended.

Our concurrence would be based on information in the BA and implementation of the conservation measures described in the BA. The U.S. Fish and Wildlife Service believes that sufficient information on effects of project activities has been provided for the lead Federal agency to conclude a determination of effect for listed species.

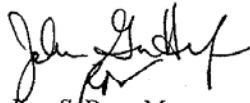
In order to expedite the environmental review process, if the Federal Highway Administration concurs with the effect determinations for listed species, then you may consider this action to be in compliance with requirements of 50 CFR 402.13, thereby concluding the consultation process. The project should be reanalyzed if new information reveals effects of the action that may affect listed species or critical habitat in a manner, or to an extent, not considered in this consultation. The project should also be reanalyzed if the action is subsequently modified in a manner that causes an effect to a listed species or critical habitat that was not considered in this consultation, and/or a new species is listed or critical habitat is designated that may be affected by this project.

**Finding of No Significant Impact (FONSI)
for I-5 South Everett Park-and-Ride Lot and HOV Access Project**

Gary Davis

If you have any questions, contact Martha Jensen at (360) 753-9000.

Sincerely,



Ken S. Berg, Manager
Western Washington Fish and Wildlife Office

cc:

FHWA, Olympia (E. Healy/J. Leonard)
WDFW, Region 4

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-----Original Message-----

From: Bigler, Brian S.
Sent: Friday, September 24, 2004 1:28 PM
To: Rickard, Neil; Quan, Jennifer
Cc: Ziegler, Ellie; Chris Townsend (E-mail); Larson, Jim; Barry, Ed (NWR)
Subject: SR 5, South Everett Park and Ride Lot and HOV Access Project (USFWS# 1-3-02-I-1932; NOAA# 2002/00975)

Neil and Jen,

Following the Sound Transit Regional Express South Everett Park-and-Ride project ESA consultation (USFWS# 1-3-02-I-1932; NOAA# 2002/00975), the City of Everett and WSDOT proposed exempting stormwater detention for the Silver Lake and Wood Creek subbasins. There are no anadromous species in either of these waterbodies and WSDOT concludes that this will not change the effects determinations for Chinook salmon, bull trout, bald eagles, or EFH. Reinitiation of the consultation is not warranted, and this information is provided for your administrative records.

The City of Everett proposed the exemption for the Silver Lake basin primarily because inflow hydrographs are bi-modal. Detention of stormwater from the park and ride stormwater facilities would have the affect of bringing the peaks closer in phase, resulting in increased peak inflows to the lake that would potentially exacerbate flooding in Silver Lake and the immediate areas. Also, the outlet channel has a relatively flat stage-discharge relationship, which means that as lake levels rise outflows do not increase significantly. The city attributes this flat stage-discharge relationship to the relatively flat outflow gradient, which limits the conveyance capacity. The city also notes that there are several beaver dams near the downstream end of the channel, which also contribute to buffered downstream conveyance.

This change entails exempting detention for approximately 3.5 acre-feet of combined live detention storage in the Silver Lake subbasin. WSDOT found that undetained stormwater would increase the lake surface elevation approximately 0.4 inches, assuming that 3.5 acre-feet of water enters the lake instantaneously. The relatively flat stage-discharge relationship for the outlet channel indicates that such a small increase in lake level would not cause a significant increase in peak flow magnitude or duration downstream of the lake.

WSDOT also proposed to the City of Everett several changes to the stormwater management plans for the Wood Creek basin. The project will add 0.63 acres of new impervious area within the Wood Creek basin. Of the new impervious area being added, detention will be provided for 0.38 acres via existing detention ponds. Detention will not be provided for the remaining 0.25 acre of new impervious area. Runoff from this area will be bypassed to a stormwater treatment facility that will discharge to the Snohomish River by an existing outfall.

Brian Bigler
Asst. NW Region Biology Program Mgr.
Washington State Department of Transportation
PO Box 330310; MS138
Seattle, WA 98133-9710

8/25/2005

**Finding of No Significant Impact (FONSI)
for I-5 South Everett Park-and-Ride Lot and HOV Access Project**



**Washington State
Department of Transportation**
Douglas B. MacDonald
Secretary of Transportation

Northwest Region
Environmental Services
PO Box 330310 MS 138
Seattle, WA 98133-9710

December 12, 2002

Janet Curran
NOAA Fisheries
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Re: EFH Recommendations for the Sound Transit Regional Express Park and Ride Project
(NOAA FISHERIES # 2002/00975)

Dear Ms. Curran:

NOAA Fisheries has requested a response to concerns for Essential Fish Habitat made under authority of the Magnuson-Stevens Fishery Conservation and Management Act for a consultation process concluded on October 29, 2002. NOAA Fisheries recommended that the Washington State Department of Transportation (WSDOT) and Sound Transit seek opportunities to lessen the adverse effect of stream baseflow from the removal of forest cover and the addition of impervious surfaces in the North Creek and Silver Lake/Penny Creek watersheds.

WSDOT and Sound Transit have been working a process to determine the extent to which low impact stormwater management practices can be incorporated into the proposed South Everett project since well before this recommendation by NOAA Fisheries. Sound Transit commissioned a study that analyzed the relative costs of maintenance practices between standard stormwater best management practices and low impact techniques. A copy of that report is attached.

WSDOT's Northwest Region Hydraulics Office is currently working on a proposal that recommends the use of low impact stormwater management practices to the greatest extent possible. When that proposal is complete, project managers from both WSDOT and Sound Transit will consider whether it is practicable to implement the recommended measures.

We feel that these activities constitute compliance with NOAA Fisheries EFH recommendations for the South Everett project.

For questions or additional information on this project, please contact Brian Bigler at 206-440-4951.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Brian Bigler'.

Gary Davis
Assistant Environmental Program Manager / Biology

cc: Chris Townsend, Sound Transit
Elizabeth Healy, FHWA

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DESIGN OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

October 29, 2002

Gary Davis
Washington State Department of Transportation
15700 Dayton Ave. N.
P.O. Box 330310
Seattle, Washington 98133-9710

Re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Sound Transit Regional Express South Everett Park and Ride WIN # A00545D (NOAA Fisheries No. 2002/00975)

Dear Mr. Davis:


This correspondence is in response to your request for informal consultation under the Endangered Species Act (ESA). Additionally, this letter fulfills the requirements for consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Endangered Species Act

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the Biological Assessment (BA) for the above referenced project received on October 12, 2002. NOAA Fisheries concurs with the Washington State Department of Transportation's (WSDOT) effect determination of "may affect, but not likely to adversely affect" Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) as provided under section 7(a)(2) of the ESA and its implementing regulations (50 C.F.R. 402). Puget Sound chinook salmon were listed as threatened under the ESA on March 24, 1999 (50 C.F.R. 223 and 224).

WSDOT, in conjunction with Sound Transit, proposes to build a new Park and Ride facility in the median of Interstate 5 (I-5) just north of the 112th Street SE overpass in south Everett, Snohomish County, Washington. The project includes the following activities: construction of high occupancy vehicle (HOV) access ramps from the inside lanes of I-5; installation of new illumination, drainage facilities, and landscaping; construction of retaining walls to minimize side slopes and impacts to sensitive areas; extension of the northbound, outside general purpose lane to just north of State Route 526; replacement of the eastside 112th St. SE bridge with a new and higher five lane structure; widening of the westside 112th St. SE bridge from two lanes to five; and construction of an access road for all traffic between 112th St. SE and the Park and Ride lot/HOV access ramps in the I-5 median to the north.

The project site occurs in three subbasins: North Creek, Silver Lake/Penny Creek, and Wood Creek. North Creek and Silver Lake/Penny Creek occur in the Sammamish River/Lake Washington watershed. Chinook salmon occur in North Creek approximately two miles

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**Finding of No Significant Impact (FONSI)
for I-5 South Everett Park-and-Ride Lot and HOV Access Project**

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downstream of the project area, but do not occur in Silver Lake/Penny Creek. Wood Creek flows to the Marshland Ditch that feeds into the Snohomish River. The Snohomish River is habitat for chinook salmon, but Wood Creek does not support chinook salmon.

The new Park and Ride and associated road improvements will remove forest cover and add new impervious surfaces in these three subbasins, however given the stormwater management design and distance of the project from chinook salmon-bearing waters, the project will have an insignificant or discountable effect on peak flows and water quality of the basins. Potential effects of sedimentation and hazardous spills are also expected to be insignificant or discountable based upon the conservation measures described in the BA for stormwater management, temporary erosion and sediment control, spill prevention, and construction staging and timing. NOAA Fisheries's concurrence with the effect determination for the proposed project is based on information in the BA and is contingent upon full implementation of the conservation measures as proposed.

This concludes informal consultation on this action in accordance with 50 C.F.R. 402.14(b)(1). WSDOT must re-analyze this ESA consultation if any of the following occur: (1) new information reveals that the action may affect listed species in a way not previously considered; (2) the action is modified in a manner that causes an effect to the listed species that was not previously considered; or (3) new species are listed or critical habitat is designated that may be affected by the identified actions.

Magnuson-Stevens Fishery Conservation and Management Act

Federal agencies are required, under §305(b)(2) of the MSA and its implementing regulations (50 C.F.R. 600 Subpart K), to consult with NOAA Fisheries regarding actions that are authorized, funded, or undertaken by that agency that may adversely affect Essential Fish Habitat (EFH). The MSA (§3) defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." If an action would adversely affect EFH, NOAA Fisheries is required to provide the Federal action agency with EFH conservation recommendations (MSA §305(b)(4)(A)). This consultation is based, in part, on information provided by the Federal action agency and descriptions of EFH for Pacific salmon contained in Appendix A to Amendment 14 to the Pacific Coast Salmon Plan (August 1999) developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce (September 27, 2000).

The proposed action is described previously, and in detail in the BA. EFH for chinook and coho has been designated in North Creek, Silver Lake/Penny Creek, and Wood Creek, and for Puget Sound pink salmon (*O. gorbuscha*) in Wood Creek. NOAA Fisheries believes that the proposed action may adversely affect the EFH of coho salmon in upper reaches of North Creek and Silver Lake/Penny Creek watersheds by reducing groundwater recharge that may further reduce the already impaired baseflows of North Creek and Penny Creek where coho salmon occur.

EFH Conservation Recommendations: Pursuant to §305(b)(4)(A) of the MSA, NOAA Fisheries is required to provide EFH conservation recommendations to Federal agencies regarding actions

that would adversely affect EFH. NOAA Fisheries recommends that the WSDOT, as the designated non-federal representative of the Federal Highway Administration, together with the applicant, Sound Transit, implement the following conservation measures for the protection of coho salmon EFH:

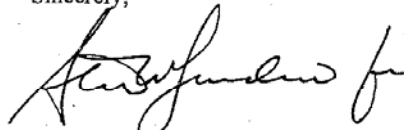
The WSDOT and Sound Transit should seek opportunities to lessen the adverse effect of reduced stream baseflow from the removal of forest cover and the addition of impervious surfaces in the North Creek and Silver Lake/Penny Creek watersheds. Such opportunities include the incorporation of low impact development technologies, where feasible, to facilitate on-site infiltration and reduce the volume of stormwater generated.

Federal agencies are required to provide a detailed written response to NOAA Fisheries' EFH conservation recommendations within 30 days of receipt of those recommendations (MSA §305(b)(4)(A)) and 50 C.F.R. 600.920(j)). This response must include a description of measures proposed to avoid, mitigate, or offset the adverse effects of the activity on EFH. In the case of a response that is inconsistent with the EFH conservation recommendations, the response must explain the reasons for not following the recommendations, including the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to minimize, mitigate, or offset such effects.

If the proposed action is modified in a manner that may adversely affect EFH, or if new information becomes available that affects the basis for NOAA Fisheries' EFH conservation recommendations, WSDOT will need to reinitiate consultation in accordance with the implementing regulations for EFH at 50 C.F.R. 600.920(k).

Thank you for your effort to protect EFH and threatened Puget Sound chinook salmon. If you have any questions concerning this consultation, please contact Janet Curran of the Washington Habitat Branch Office at (206) 526-4744.

Sincerely,



D. Robert Lohn
Regional Administrator

cc: WSDOT Olympia- Paul Wagner
FHWA- Megan Hall
FHWA- Elizabeth Healy
Sound Transit- Chris Townsend
USFWS- Jennifer Quan

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